

DETAILED ACTION

Response to Amendment

1. The Applicant's amendment, filed 07 September 2007, has been received, entered into the record, and respectfully and carefully considered.
2. As a result of the amendment, claims 1-57 are canceled. Claims 58-86 are newly added claims.
3. Any objection/rejection is not repeated below is withdrawn due to examiner's amendment.

Election/Restrictions

4. Applicant's election of Group II (Claims 81-86) in the reply filed on 11 March 2008 is acknowledged. However, because the Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (M.P.E.P. § 818.03(a)).

Therefore, Group I (Claims 58-80) is hereby withdrawn.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 81-86 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 81-86 are directed to an access communication equipment **programmed** to allow a retailer to establish restrictions on a user's wireless access to a computer network. However, according to Applicant's specification on page 10, paragraph [0049] that the system can be implemented using software alone. There is no element positively recited as part of the system.

Applicant's specification provides no explicit and deliberate definition on any element positively recited as part of the system, and it appears that such would reasonably be interpreted as representative of the software which manages local control of access to a computer network. Further, please note computer network recited in the claim is not part of the equipment and "equipment" is not necessarily referring to hardware or hardware-software combination. In this case, this equipment is "programmed" to perform the function. To a person with ordinary skill in the art at the time of the invention, "programmed" means software is being programmed. As such, it is believed that the systems of claims 81-86 are reasonably interpreted as functional descriptive material, *per se*.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 81-82 and 84 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhang et al. (U.S. Pub. 2002/0174335)

As per **claim 81**, Zhang et al. discloses access point communication equipment programmed to allow a retailer ("...hot spots such as airports, hotels, coffee shops and vacation resorts..." – e.g. abstract. Please note hot spots correspond to Applicant's retailer) to establish restriction on a user's wireless access to a computer network operated by a network service provider independent of said retailer ("...the AP 120 controls the authentication by the MT 110, which includes the establishment

of the authentication channel, the controlling mechanism on the AP 120 and the session key assignment and management mechanisms. This requires that a router based controller...Such a controller can be either implemented in the AP 120" – e.g. par. [0058] – [0059]. Please note AP 120 implemented with a router based controller corresponds to Applicant's access point communication equipment).

As per **claim 82**, Zhang et al. discloses the access point communication equipment as disclosed above in claim 81. Zhang et al. further discloses wherein said computer network is the Internet ("Mobile users access the Internet...at hot spots such as airports, hotels, coffee shops and vacation resorts..." - e.g. abstract).

As per **claim 84**, Zhang et al. discloses the access point communication equipment as disclosed above in claim 81. Zhang et al. further discloses wherein said user must obtain an access code from said retailer and transmit said access code to said access point communication equipment before said user obtains access to said computer network through said access point communication equipment ("Since session keys are used between an AP and its associated MTs, they should be local to the AP 120....The system according to the preferred embodiment provides a mechanism which allows APs 120 to determine session keys and communicate them securely to the associated MTs." - e.g. par. [0064]. Please note MTs corresponds to Applicant's user and session keys corresponds to Applicant's access code).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 83 and 85-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al. (U.S. Pub. 2002/0174335) in view of Balazinski et al. (U.S. Pub. No. 2002/0167909)

As per **claim 83**, Zhang et al. discloses the access point communication equipment as disclosed above in claim 81. Zhang et al. does not expressly disclose wherein said programming

allows said retailer to establish a user's maximum session time, maximum data volume and/or impose payment requirements for use of said computer network.

However, this well known feature of wherein said programming allows said retailer to establish a user's maximum session time, maximum data volume and/or impose payment requirements for use of said computer network is disclosed in Balazinski et al. (e.g. abstract, par. [0002], [0004] - [0006], [0011]- [0014], [0039] – [0044]).

Both Zhang et al. and Balazinski et al. are in the same field of endeavor of wireless communications/accounting to surf on the Internet. It would have been obvious to a person with ordinary skill in the art at the time of invention to incorporate Balazinski's wherein said programming allows said retailer to establish a user's maximum session time, maximum data volume and/or impose payment requirements for use of said computer network into Zhang et al.'s motivated by "to overcome the limitations of current billing methods...thereby reducing signaling and traffic in the network" (e.g. Balazinski et al., par. [0011])

As per **claims 85 and 86**, Zhang et al. discloses the access point communication equipment as disclosed above in claim 84.

Zhang et al. does not expressly disclose said access code of Zhang et al. has one or more restrictions on use of the computer network associated with it and wherein the restrictions associated with the access code include maximum session time, maximum data volume and/or payment requirement.

However, this well known feature of having one or more restrictions on use of the computer network associated with it and wherein the restrictions associated with the access code include

maximum session time, maximum data volume and/or payment requirement is disclosed in Balazinski et al (e.g. abstract, par. [0002], [0004] - [0006], [0011]- [0014], [0039] – [0044]).

Both Zhang et al. and Balazinski et al. are in the same field of endeavor of wireless communications/accounting to surf on the Internet. It would have been obvious to a person with ordinary skill in the art at the time of invention to incorporate Balazinski's one or more restrictions on use of the computer network associated with it and wherein the restrictions associated with the access code include maximum session time, maximum data volume and/or payment requirement into Zhang et al.'s access code motivated by "to overcome the limitations of current billing methods...thereby reducing signaling and traffic in the network" (e.g. Balazinski et al., par. [0011])

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See PTO -892). The Applicant is strongly urged to review all the references cited by the examiner in order to respond to the current Office Action.
14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the

mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to APRIL Y. SHAN whose telephone number is (571)270-1014. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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